

House File 2379 - Reprinted

HOUSE FILE 2379
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2157)

(As Amended and Passed by the House March 12, 2012)

A BILL FOR

1 An Act relating to expunging certain criminal records, and
2 including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 907.1, Code 2011, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 2A. "*Expunged*" means the court's criminal
4 record with reference to a deferred judgment or any other
5 criminal record that has been segregated in a secure area or
6 database which is exempted from public access.

7 Sec. 2. Section 907.4, Code Supplement 2011, is amended to
8 read as follows:

9 **907.4 Deferred judgment docket.**

10 1. A deferment of judgment under section 907.3 shall be
11 entered promptly by the clerk of the district court, or the
12 clerk's designee, into the deferred judgment database of the
13 state, which shall serve as the deferred judgment docket. The
14 deferred judgment docket shall be maintained by the state court
15 administrator and shall not be destroyed. The docket shall
16 contain a permanent record of the deferred judgment including
17 the name and date of birth of the defendant, the district court
18 docket number, the nature of the offense, and the date of the
19 deferred judgment. Before granting deferred judgment in any
20 case, the court shall search the deferred judgment docket and
21 shall consider any prior record of a deferred judgment against
22 the defendant.

23 2. The permanent record provided for in this section
24 is a confidential record exempted from public access under
25 section 22.7 and shall be available only to justices of the
26 supreme court, judges of the court of appeals, district judges,
27 district associate judges, judicial magistrates, clerks of the
28 district court, judicial district departments of correctional
29 services, county attorneys, the department of public safety,
30 and the department of corrections requesting information
31 pursuant to this section, or the designee of a justice, judge,
32 magistrate, clerk, judicial district department of correctional
33 services, or county attorney, or departments.

34 Sec. 3. Section 907.9, subsection 4, Code 2011, is amended
35 to read as follows:

1 4. a. At the expiration of the period of probation if
2 the fees imposed under section 905.14 and court debt collected
3 pursuant to section 602.8107 have been paid, the court shall
4 order the discharge of the person from probation. If portions
5 of the court debt remain unpaid, the person shall establish a
6 payment plan with the clerk of the district court or the county
7 attorney prior to the discharge. The court shall forward to
8 the governor a recommendation for or against restoration of
9 citizenship rights to that person upon discharge. A person who
10 has been discharged from probation shall no longer be held to
11 answer for the person's offense.

12 b. Upon discharge from probation, if judgment has been
13 deferred under section 907.3, the court's criminal record with
14 reference to the deferred judgment, any counts dismissed by the
15 court, which were contained in the indictment, information,
16 or complaint that resulted in the deferred judgment, and
17 any other related charges that were not contained in the
18 indictment, information, or complaint but were dismissed,
19 shall be expunged. The record maintained by the state court
20 administrator as required by section 907.4 shall not be
21 expunged. However, the court's record shall not be expunged
22 until the person has paid the restitution, civil penalties,
23 court costs, fees, or other financial obligations ordered by
24 the court or assessed by the clerk of the district court in
25 the case that includes the deferred judgment. The expunged
26 record is a confidential record exempt from public access under
27 section 22.7 but shall be made available by the clerk of the
28 district court, upon request and without court order, to an
29 agency or person granted access to the deferred judgment docket
30 under section 907.4, subsection 2. The court's record shall
31 not be expunged in any other circumstances unless authorized
32 by law.

33 c. A dismissed count or related charge shall be expunged
34 pursuant to the provisions of paragraph "b" in the following
35 manner:

1 (1) A count which was contained in the indictment,
2 information, or complaint that resulted in the deferred
3 judgment shall be expunged when the deferred judgment is
4 expunged.

5 (2) A related charge that was not contained in the
6 indictment, information, or complaint that resulted in the
7 deferred judgment shall only be expunged upon a court order
8 that identifies the related charge to be expunged.

9 d. A count or related charge that was dismissed shall not be
10 expunged pursuant to paragraph "c" in any case in which a count
11 or charge resulted in a conviction that was not expunged.

12 e. The provisions of paragraph "c" apply whether the
13 deferred judgment was expunged prior to the effective date of
14 this Act, or on or after the effective date of this Act.

15 f. The provisions of paragraph "b" that require payment
16 of financial obligations as a condition for expungement of a
17 deferred judgment apply to any deferred judgment that has not
18 been expunged prior to the effective date of this Act.

19 g. For purposes of this subsection, a charge or count is
20 related to another charge or count if the charge or count arose
21 from the same transaction or occurrence or from two or more
22 transactions or occurrences constituting parts of a common
23 scheme or plan.

24 Sec. 4. APPLICABILITY AND COMPLIANCE. The judicial branch
25 shall have until July 1, 2013, to comply with the provisions of
26 this Act on expungement of the court's record of a dismissed
27 count or related charge.